

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

KATHLEEN L POLDBERG
Claimant

APPEAL NO. 07A-UI-04385-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 03/11/07 R: 03
Claimant: Respondent (1)

871 IAC 26.8(5) - Decision on the Record

STATEMENT OF THE CASE:

An appeal was filed from an unemployment insurance decision dated April 23, 2007, reference 03, that concluded claimant was eligible. A telephone hearing was scheduled for May 29, 2007. The appellant and employer declined to participate in the hearing.

ISSUE:

The issue is whether claimant voluntarily quit for good cause attributable to employer.

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. This matter has been rendered moot by a decision from UISC found as reference 04. Claimant has been allowed benefits. Employer's account shall not be charged. There is no need for further review.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 26.8(3), (4) and (5) provide:

Withdrawals and postponements.

(3) If, due to emergency or other good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another hearing. If a decision has been issued, the decision may be vacated upon the presiding officer's own motion or at the request of a party within 15 days after the mailing date of the decision and in the absence of an appeal to the employment appeal board of the department of inspections and appeals. If a decision is vacated, notice shall be given to all parties of a new hearing to be held and decided by another presiding officer. Once a decision has become final as provided by statute, the presiding officer has no jurisdiction to reopen the record or vacate the decision.

(4) A request to reopen a record or vacate a decision may be heard ex parte by the presiding officer. The granting or denial of such a request may be used as a grounds for appeal to the employment appeal board of the department of inspections and appeals upon the issuance of the presiding officer's final decision in the case.

(5) If good cause for postponement or reopening has not been shown, the presiding officer shall make a decision based upon whatever evidence is properly in the record.

The administrative law judge has carefully reviewed evidence in the record and concludes that the unemployment insurance decision previously entered in this case is moot.

Pursuant to the rule, the appellant must make a written request to the administrative law judge that the hearing be reopened within 15 days after the mailing date of this decision. The written request should be mailed to the administrative law judge at the address listed at the beginning of this decision and must explain the emergency or other good cause that prevented the appellant from participating in the hearing at its scheduled time.

DECISION:

The unemployment insurance decision dated April 23, 2007, reference 03, is moot as it was amended by reference 04. The decision holding the claimant qualified for benefits is moot as it has been modified by subsequent decision which is now binding.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs